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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT
(Sacramento)

THE PEOPLE,

Plaintiff and Respondent,

v.

CHARLES CHRISTOPHER REED,

Defendant and Appellant.

C085946

(Super. Ct. No. 17FE011016)

A jury found defendant Charles Christopher Reed guilty of arson of a structure and forest land. On appeal, he challenges certain statements the trial court made to the jury pool. He maintains the statements watered down the burden of proof to something close to a preponderance of the evidence. We conclude the trial court's comments during jury selection did not lessen the requirement of proof beyond a reasonable doubt. We affirm the judgment.

BACKGROUND

Defendant was seen setting fire to a pile of dried grass on a nine-acre field of grass. He was ultimately found guilty by a jury of arson of a structure and forest land.

The Trial Court Addresses the Prospective Jurors

Before jury selection, the trial court addressed the jury pool. The last portion of the court's remarks forms the basis of defendant's challenge on appeal.

Early in the address, the trial court told the prospective jurors that "under our system, the government has to prove, convince 12 people that what the person did is actually true." The court then explained the standard of proof: The district attorney "must convince the jury that [defendant] is guilty beyond a reasonable doubt. That's the standard of proof. You're going to be hearing that off and on throughout the trial, beyond a reasonable doubt. That's the standard that the jury must be convinced to find the defendant guilty of something."

The trial court continued: "So what does that mean? . . . Proof beyond a reasonable doubt is proof that leaves you with an abiding conviction that the charge is true. . . . Abiding meaning something that is long-lasting, not just temporary. If you think about this case six months from now, you feel the same way. It's an abiding conviction that the charge is true. And then conviction means a firm belief. That's how that's been defined."

"But then, folks, it goes on, there's a caveat here. It goes on to say that the district attorney doesn't have to prove the charges beyond all doubt, or like some of those old movies, beyond the shadow of a doubt. That's not the burden. It's not beyond all doubt or beyond the shadow of a doubt. It says everything in life is open to some possible or imaginary doubt."

"Just not beyond all doubt, it is proof beyond a reasonable doubt. That's the D.A.'s burden. Unless and until the district attorney then convinces 12 people that he's

met that burden, remember the defendant is still presumed innocent and you would have to vote him not guilty unless the D.A. met his burden.”

The Challenged Statements

Right before jury selection, the trial court discussed one final topic: “One last point before we take a break. You know, folks, occasionally I’ll get a juror who will say to me that they can’t serve on a jury. And when I hear that, sometimes people tell me that they cannot serve because they don’t feel it is their place to judge people.”

“And sometimes I’ll get that from somebody that’s coming at me from some deeply held religious belief or some other moral principle by which they live their life and they don’t believe that they should — that they have a right to judge people. And, therefore, they cannot serve on a jury.”

“So does anybody feel that way? Anybody entertain that kind of thought, anyone?”

“I’m looking around, I’m not seeing any hands.”

“But in case anybody feels that way, let me throw something out for you to consider in that regard. And I think it’s important.”

“You know, folks, as a juror, you are not judging the defendant. As a juror, I already alluded to this a couple of times or more, you are assessing, weighing the evidence. You’re deciding whether or not you believe or do not believe what you’re hearing from these witnesses and other documents and other evidence that’s going to be introduced.”

“So you are weighing the evidence. You’re deciding whether or not you’re convinced by what you’re hearing. In that regard, you’re not judging the defendant, you’re deciding if you believe what you’re hearing. That’s all you’re doing.”

“In that regard, you are not doing anything different as a juror than things that we do every single day. By that I mean every day we encounter people at home, work, and

people are telling us things. Did you hear this? Did you know this? This happened to me. I saw this, heard that.”

“You go to a store, talk to a salesperson, they’re telling you things, you’re deciding whether or not what you are hearing is something you’re going to believe as true.”

“As a juror, that’s all you’re doing. Now we have this beyond a reasonable doubt thing, but basically you’re deciding if you are convinced by the evidence. You’re not judging him.”

“Now, if the jury, once the case is over the jury goes back and deliberates and let’s say they return and they find him guilty of something, well, if that’s the case, then I step in, I decide what happens to him if he’s found guilty by a jury. That’s my job, not yours. It’s my job to decide what happens if there’s a guilty verdict.”

“You’re not judging the defendant at all, if you’re a juror, you’re simply deciding whether or not you’re convinced by what you’re hearing. A function that we all perform every single day as people are interacting with us and we’re hearing things being said to us, et cetera. Okay.”

“If anybody had that kind of thought, ladies and gentlemen, I hope that that helps to clarify about this thing about not judging people, which every now and then I’ll get that.”

Jury voir dire thereafter commenced.

DISCUSSION

On appeal, defendant contends the trial court’s comments regarding how a jury should make a decision violated his right to a jury trial conducted under the reasonable doubt standard. He argues the trial court improperly instructed the jury that the standard of proof was analogous to everyday decision making. He takes particular issue with the comparison of a juror’s task with that of a shopper listening to a sales person. He

maintains the court lowered the standard of proof to something akin to a preponderance of the evidence. Defendant is mistaken.

Viewed in context, the comments did not suggest the jury could apply a less stringent standard of proof. The trial court made clear the comments at issue were offered in the context of dispelling the concerns of jurors who believe they cannot serve on a jury: “One last point before we take a break. You know, folks, occasionally I’ll get a juror who will say to me that they can’t serve on a jury. . . . [T]hey don’t feel it is their place to judge people.”

The court explained that serving on a jury does not involve judging: “That’s my job, not yours. It’s my job to decide what happens if there’s a guilty verdict.” It explained the jury’s job is to weigh the evidence: “You’re deciding whether or not you’re convinced by what you’re hearing. In that regard, you’re not judging the defendant, you’re deciding if you believe what you’re hearing. That’s all you’re doing.”

In that narrow context, the court explained that a juror’s role of deciding what happened is no different than what a juror does every day: “You go to a store, talk to a salesperson, they’re telling you things, you’re deciding whether or not what you are hearing is something you’re going to believe as true.”

The trial court was careful to note a different standard of proof applies in a criminal trial: “Now, we have this beyond a reasonable doubt thing, but basically you’re deciding if you are convinced by the evidence.” And the court had just explained in detail the reasonable doubt standard of proof.

In sum, the challenged statements were addressing the concerns of prospective jurors who might feel they cannot serve because it is not their place to judge people. We conclude the trial court’s comments during jury selection did not lessen the requirement of proof beyond a reasonable doubt.

DISPOSITION

The judgment is affirmed.

/s/

HOCH, J.

We concur:

/s/
BUTZ, Acting P. J.

/s/

MURRAY, J.